

Notice of Allowability

Application No.

10/816,021

Applicant(s)

STEIL ET AL.

Examiner

Catherine N. Witczak

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/22/2007.
2. ☒ The allowed claim(s) is/are 16, 32, 35 and 36.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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Art Unit: 3767

*Oath/Declaration*

Applicant is now required to submit a substitute declaration or oath to correct the deficiencies set forth:

The declaration currently reads:

“I acknowledge my duty to disclose information, which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations §1.56(a). “

It should be changed to read:

“I acknowledge my duty to disclose information, which is material to the *patentability* of this application in accordance with Title 37, Code of Federal Regulations §1.56(a). “

The substitute oath or declaration must be filed within the THREE MONTH shortened statutory period set for reply in the “Notice of Allowability” (PTO-37). Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136. Failure to timely file the substitute declaration (or oath) will result in ABANDONMENT of the application. The transmittal letter accompanying the declaration (or oath) should indicate the date of the “Notice of Allowance” (PTOL-85) and the application number in the upper right hand corner.

**EXAMINER’S AMENDMENT**

An examiner’s amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

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Art Unit: 3767

Authorization for this examiner's amendment was given in a telephone interview with Richard Yoon on 5/10/2007.

1) Claim 16: On lines 7-9,

delete:

-----“wherein a proportional component and a derivative component of the PID controller may be combined to represent a first phase insulin response, and an integral component of the PID controller represents a second phase insulin response;” -----

and insert in its place:

----- “wherein a proportional component and a derivative component of the PID controller are combined to represent a first phase insulin response, as measured from a normal glucose tolerant individual, and an integral component of the PID controller represents a second phase insulin response, as represented by the steady increase in insulin release under hyperglycemic clamp;” -----

2) Claim 32: On lines 7-9,

delete:

-----“wherein a proportional component and a derivative component of the PID controller may be combined to represent a first phase insulin response, and an integral component of the PID controller represents a second phase insulin response;” -----

and insert in its place:

----- “wherein a proportional component and a derivative component of the PID controller are combined to represent a first phase insulin response, as measured from a normal glucose tolerant

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Art Unit: 3767

individual, and an integral component of the PID controller represents a second phase insulin response, as represented by the steady increase in insulin release under hyperglycemic clamp;” -----

*Allowable Subject Matter*

Claims 16, 32, 35, and 36 are allowed.

As to independent claims 16 and 32 the prior art does not disclose or render obvious at the time the invention was made a system and method of generating commands by a PID controller, wherein a proportional component and a derivative component of the PID controller are combined to represent a first phase insulin response and an integral component of the PID controller represents a second phase insulin response.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine N. Witczak whose telephone number is (571) 272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3767

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

cw

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KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons